



The Commonwealth of Massachusetts

Office of Campaign & Political Finance

One Ashburton Place, Boston 02108

727-8352

AO-14

Dennis J. Duffin
Director

AO-1984-14
September 17, 1984

Ms. Susan R. Burstein
36 Riverside Drive
Waltham, MA 02154

Dear Ms. Burstein:

This is in response to your recent request for an advisory opinion in accordance with M.G.L. c. fifty-five campaign finance law. Specifically, you have inquired whether, given the particular circumstances of your employment, Section thirteen of Chapter fifty-five prohibits you from being Treasurer of the Waltham Democratic City Committee.

You have presented the following facts. You are employed as a Principal Planner by the New England Interstate Water Pollution Control Commission [hereinafter referred to as NEIWPC]. You have characterized this as an interstate commission created by Compact entered into by the New England States and New York pursuant to Congressional authorization. Each of the signatory states, including Massachusetts, appropriates money for NEIWPC salaries, offices, administration, travel and other expenses recommended by the Commission.

The Massachusetts Department of Environmental Quality Engineering [hereinafter referred to as DEQE] has engaged the NEIWPC to develop and improve its financial and administrative systems relative to water supply management and other work carried out by the DEQE pursuant to federal and state environmental laws. The contract between NEIWPC and the DEQE provides that the NEIWPC furnish staff and services to the DEQE pursuant to job descriptions provided by the DEQE. The DEQE provides working space, copy services and telephones to the NEIWPC staff. NEIWPC initially incurs expenses for salaries and services and obtains subsequent reimbursement from the DEQE in accordance with terms and payment limitations set forth in the contract by submitting standard invoices. Staff furnished by the NEIWPC are enrolled in either of its group health insurance plans. Finally, you state that you are not named in the contract between NEIWPC and the DEQE and the checks you receive as salary are from NEIWPC. Finally, you have submitted a letter from Sidney D. Kallman, Comptroller of the New England Interstate Water Pollution Control Commission which represents that you are employed as a Principal Planner by the Commission.

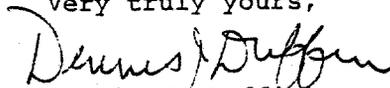
Section thirteen of Chapter fifty-five provides in relevant part that "No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever..." As was stated in Advisory Opinion 84-2, issued January 26, 1984, "It has been a longstanding and consistent interpretation by this office that an individual subject to the provisions of this section may not be the treasurer of a political committee, given the responsibilities imposed on that office by c. 55."

The issue before us is whether, given the particular circumstances of your employment, you are an individual subject to the provisions of Section thirteen. You state that you are supervised by other staff of the NEIWPCC. While services by someone like yourself are provided for in the contract between the DEQE and NEIWPCC, it is NEIWPCC which has placed you, in particular, at the DEQE, and it is NEIWPCC which is responsible for your work. While your salary is billed to the DEQE by NEIWPCC you receive your salary checks from NEIWPCC and are enrolled in one of their group insurance plans. The DEQE employee responsible for overseeing the contract with NEIWPCC does not consider you or any other NEIWPCC staff as persons employed for compensation by the commonwealth.

In my opinion, the particular facts and circumstances of your employment compels the conclusion that you are not a "person employed for compensation by the commonwealth or any county, city or town" as that term applies to chapter fifty-five. Section thirteen does not, therefore, prohibit you from being Treasurer of the Waltham Democratic City Committee.

This opinion concerns the application of Chapter fifty-five, the Massachusetts campaign finance law, to your activities. Furthermore, the evidence you have presented indicates that authorities of the NEIWPCC view you as an employee of the Commission. You may wish to consult the appropriate federal agencies to determine if any federal law, such as the Hatch Political Activity Act, would apply to your activities.

Very truly yours,


Dennis J. Duffin
Director